THE HON'BLE SRI JUSTICE C.Y.SOMAYAJULU

W.P. No. 8801 of 2002

Dated:13.12.2007

Between:

B. Rama Laxmi.

..Petitioner.

and

The Commissioner, Municipal Corporation, Visakhapatnam.

..Respondent.

THE HON'BLE SRI JUSTICE C.Y.SOMAYAJULU

W.P. No. 8801 of 2002

ORDER

This petition is filed questioning the action of the respondent in not granting permission to construct a house in the site belonging to the petitioner.

2. In the counter filed on behalf of the respondent, it is stated that the permission was refused on 01.09.2001 on the remarks of the town surveyor.

3. At the time of admission of the writ petition, by order dated 09.10.2002 in WPMP No.10916 of 2002, a learned Judge directed the respondent not to interfere with the construction made by the petitioner as long as it is in accordance with the relevant building bye-laws as regards set back and other aspects. That order is still in force.

4. Since the respondent did not either accord or refuse permission to the petitioner within 30 days as per Section 437 of the Municipal Corporation Act, the petitioner has every right to make constructions. Therefore, as long as the construction is in accordance with the Rules, respondent cannot interfere with the building of the petitioner on the ground that he constructed the building without obtaining permission or on the basis that it refused the permission one year after submission of the application for construction. It is needless to say that if the building of the petitioner is not in accordance with the plan or in violative any of the provisions or byelaws or the building Rules, the respondent is at liberty to proceed as per the provisions of the Act and the rules and regularizations made therein.

5. Therefore, with the direction to the respondent not to interfere with the building of the petitioner as long as it is in accordance with the building rules and byelaws, the writ petition is disposed of. No order as to costs.

C.Y.SOMAYAJULU, J

Dated: 13.12.2007

SJ